IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-HC-2225-BO

JOSE L. CINTRON,	)	
Petitioner,	)	
	)	
v.	)	O R D E R
	)	
TRACY JOHNS,	)	
Respondent.	)	

Jose L. Cintron, a federal inmate, filed a writ of habeas corpus pursuant to 28 U.S.C. §

2241. Petitioner challenges the duration of his pre-release custody placement in a Residential

Re-entry Center ("RRC") in that he seeks to be housed there for twelve months, not six months.

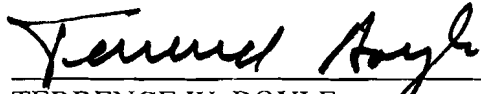(Pet.) Respondent is before the court with a motion to dismiss the action for failure to exhaust.

Petitioner was sentenced April 10, 2000, to 180 months imprisonment (Pet. p. 1) and his

release date appears to be calculated as May 3, 2013. Mot. to Dismiss, Decl. of Cox, ¶ 4. The

record shows petitioner has not exhausted his administrative remedies within the BOP. Id., ¶ 5.

In his response to the motion to dismiss, petition concedes that he has not exhausted his

administrative remedies. (D.E. # 11, Response)

A federal prisoner challenging the execution of his sentence must exhaust administrative

remedies before seeking review in federal court pursuant to section 2241. See McKart v. United

States, 395 U.S. 185, 194-95 (1969); McClung v. Shearin, 90 F. App'x 444, 445 (4th Cir. 2004)

(per curiam) (unpublished); accord Skinner v. Wiley, 355 F.3d 1293, 1295 (11th Cir. 2004) (per

curiam) (collecting cases); Carmona v. U.S. Bureau of Prisons, 243 F.3d 629, 634 (2d Cir. 2001).

"Failure to exhaust may only be excused upon a showing of cause and prejudice." McClung, 90

F. App'x at 445. Petitioner makes no showing of cause or prejudice, he simply asserts he should not be required to exhaust. (See, D.E. # 11, Response)

Accordingly, petitioner's section 2241 action is DISMISSED WITHOUT PREJUDICE to allow him the opportunity to exhaust his administrative remedies. Thus, the motion to dismiss (D.E. # 7) is ALLOWED and the case is CLOSED.

SO ORDERED, this **22** day of December 2011.

TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

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